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Attorneys for Non-Party  
RICHARD FRENKEL

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ILLINOIS COMPUTER RESEARCH, LLC,  
Plaintiff and Counterclaim Defendant,

vs.

FISH & RICHARDSON P.C.,  
Defendant, Counterclaimant and Third  
Party Plaintiff,

vs.

SCOTT C. HARRIS,  
Third-Party Defendant and  
Counterclaimant

vs.

FISH & RICHARDSON P.C.,  
Defendant, Counterclaimant, Third  
Party Plaintiff and Counterclaim  
Defendant

Miscellaneous Action No.  
CV 5:08-mc-80074-JF (HRL)

**RICHARD FRENKEL'S AGREED  
ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES  
SHOULD BE RELATED AND  
CONSOLIDATED**

Hon. Magistrate Judge Howard Lloyd

1 Non-party Richard Frenkel ("Frenkel") hereby moves for consideration of whether  
2 *Illinois Computer Research LLC v. Fish & Richardson, P.C.*, Case No. CV 5:08-mc-  
3 80075-JF (HRL), filed on April 7, 2008 ("the later-filed case"), is related to and should be  
4 consolidated with the earlier filed case *Illinois Computer Research LLC v. Fish &*  
5 *Richardson, P.C.*, Case No. CV 5:08-mc-80074-JF (HRL), also filed on April 7, 2008  
6 ("the earlier-filed case"). Both cases are assigned to Judge Jeremy Fogel and referred to  
7 Magistrate Judge Howard Lloyd. All other parties, ICR, Harris, and Cisco Systems, Inc.  
8 ("Cisco"), stipulate and agree that the two cases are related and should be consolidated.  
9 See Stipulation Regarding Richard Frenkel's Administrative Motion to Consider Whether  
10 Cases Should Be Related and Consolidated p. 2, filed concurrently herewith and  
11 incorporated herein by reference.  
12

13  
14 Pursuant to N.D. Cal. Civil L.R. 3-12(a), the two cases are related. Frenkel and his  
15 employer, Cisco, instituted the later-filed case by moving to quash a subpoena issued to  
16 Frenkel by Illinois Computer Research, L.L.C. ("ICR") and Scott C. Harris ("Harris").  
17 ICR and Harris instituted the earlier-filed case by moving to compel Frenkel to attend a  
18 deposition and produce documents in compliance with the same subpoena that Frenkel  
19 and Cisco seek to quash in the later-filed case. Thus, both cases involve the same parties  
20 – Frenkel, Cisco, ICR, and Harris – and the same events – the issuance of a subpoena by  
21 ICR and Harris and the opposition of that subpoena by Frenkel and Cisco. N.D. Cal. Civil  
22 L.R. 3-12(a)(1). Moreover, it appears likely that there will be an unduly burdensome  
23 duplication of labor and expense or conflicting results if the two cases are not related and  
24 consolidated into one action. N.D. Cal. Civil L.R. 3-12(a)(2). Further, pursuant to  
25 Federal Rule of Civil Procedure 42(a), the two cases should be consolidated.  
26  
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1 Accordingly, Frenkel respectfully requests that the Court order that the two cases  
2 are related and should be consolidated into one action, *Illinois Computer Research LLC v.*  
3 *Fish & Richardson, P.C.*, Case No. CV 5:08-mc-80074-JF (HRL).  
4

5  
6 Dated: April 18, 2008

MORGAN LEWIS & BOCKIUS LLP

7 By


Howard Holderness

8  
9 Attorneys for Non-Party  
RICHARD FRENKEL

Jennifer Fearnow  
for Howard  
Holderness

1 Dated: April 18, 2008

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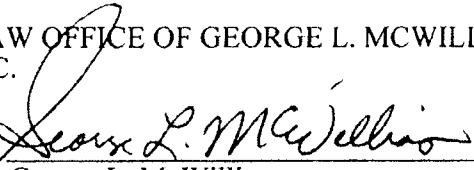
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3 Charles L. Babcock

4 Attorneys for Non-Party  
5 RICHARD FRENKEL  
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RICHARD FRENKEL

UNITED STATES DISTRICT COURT

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Plaintiff and Counterclaim Defendant,

vs.

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vs.

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Third-Party Defendant and  
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Party Plaintiff and Counterclaim  
Defendant

Miscellaneous Action No.  
CV 5:08-mc-80074-JF (HRL)

**PROOF OF SERVICE**

**CERTIFICATE OF SERVICE**

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action. My business address is One Market St., Spear Tower, San Francisco, CA 94105.

On April 18, 2008, I served on the interested parties in said action the within document(s) as indicated on the attached service list:

**RICHARD FRENKEL'S AGREED ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED AND CONSOLIDATED**

☒ (Via Overnight Delivery – Federal Express) by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for overnight delivery

☒ by transmitting **via facsimile** the document(s) listed above on this date.

☐ by causing the documents to be delivered by electronic mail addressed as set forth below.

☐ by causing the documents to be delivered by hand to the offices of the interested parties.

I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct. Signed April 18, 2008, in San Francisco, California.



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